

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 98-74

September 15, 1998

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Initiation of Subpoena Enforcement Contempt Proceedings

In Best Western City View Motor Inn, 325 NLRB No. 215 (1998), the Board discussed the procedure for initiating subpoena enforcement contempt proceedings for subpoenas issued upon the request of a private party. It held that, upon request of the party on whose behalf the subpoena was issued and enforcement proceedings were initiated, the Regional Office must initiate contempt proceedings upon noncompliance with an enforced subpoena unless to do so would be inconsistent with law and the policies of the Act. The Regional Office, however, is under no obligation to institute contempt proceedings sua sponte.

In order to reflect current Board policy, Casehandling Manual (Unfair Labor Practice and Representation Proceedings) Section 11790.1 is hereby revised to include the following at the end of the existing text:

If there is noncompliance with an enforced subpoena, upon the request of the party on whose behalf the subpoena was issued and enforcement proceedings were instituted, the Regional Office must initiate contempt proceedings in the appropriate U.S. district court, unless contempt proceedings would be inconsistent with law and the policies of the Act.

Absent a request by the party on whose behalf the subpoena was issued, contempt proceedings need not be instituted by the Regional Office. See Best Western City View Motor Inn, 325 NLRB No. 215 (1998).

Any questions concerning this memorandum should be addressed to your Assistant General Counsel, Deputy Assistant General Counsel, or to me.

R. A. S.

cc: NLRBU

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